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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/807,129	08/03/2001	Hartwig Schwier	P01,0133	4258

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EXAMINER

ZIA, SYED

ART UNIT	PAPER NUMBER
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2131

DATE MAILED: 09/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/807,129	Applicant(s) SCHWIER ET AL.	
	Examiner Syed Zia	Art Unit 2131	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is in response to amendment and request for reconsideration filed on June 21, 2006. Original application contained Claims 1-11. Applicant currently amended Claims 1, 7, 9, 11, and added new Claim 12. The amendment filed on June 21, 2006 have been entered and made of record. Therefore, Claims 1-12 are pending for consideration.

Response to Arguments

Applicant's arguments filed on June 21, 2006 have been fully considered but they are not persuasive because of the following reasons:

Regarding Claims 1-12 applicants argued that in cited prior art [Benson et al. (U. S. Patent 6,651,169)] is primarily “*convenient to download single software programs*”, and also argued that cited prior art “*disclosure is based on a functional relationship between the copy product identification, which is created by the installation program (nonce), and several public and private keys assigned to the customer and producer. On the other hand, claim 1, as amended, provides a method wherein the copy protection identification is directly connected to the user's data processing system as a hardware module, and is known by the software producer*”.

This is not found persuasive. Cited prior art clearly teaches system and method for communicating from a software producer to the user an encrypted product identification that references at least one of said user programs download.

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In the system of cited prior art computer system employ challenge mechanism for software protection and depends upon shared secret information generated by challenge mechanism, and protection server having sole access to private keying material. The system guarantees, by means of an asymmetric confidentiality protocol, that the software cannot be used unless registered by a vendor. The challenge mechanism is embedded inseparably in the protected stored software, and incorporates the vendor's public keying material. The customer sends to the vendor a registration package containing reference to a public directory where the customer's public keying material is held. The vendor embeds this material into a *keyfile* returned to the customer, who executes a protection server program requiring a password. Thus electronic copy protection mechanism has minimal impact on user interface, and does not restrict execution to limited range of downloads (col. 3 line 65 to col 5. line 10, col.7 line 28 col.11 line 14).

As a result, the system of cited prior art provides a system and method for operating a data processing system with copy protection for user programs, as claimed in claims 1-12.

Applicants clearly have failed to explicitly identify specific claim limitations, which would define a patentable distinction over prior arts

The examiner is not trying to teach the invention but is merely trying to interpret the claim language in its broadest and reasonable meaning. The examiner will not interpret to read narrowly the claim language to read exactly from the specification, but will interpret the claim language in the broadest reasonable interpretation in view of the specification. Therefore, the examiner asserts that cited prior art does teach or suggest the subject matter broadly recited in independent and dependent claims. Accordingly, rejections for Claims 1-12 are respectfully maintained.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1-12 is rejected under 35 U.S.C. 102(e) as being anticipated by Benson et al. (U. S. Patent 6,651,169).

1. Regarding Claim 1 Benson teach and describe a method for operating a data processing system with copy protection for user programs (Fig.11-3), comprising the steps of:

providing the data processing system with a copy protection identification by a hardware module (col.5 line 46 to line 55),

providing a storage medium containing a plurality of application programs as well as an installation program and a cryptoprogram a user (col.5 line 46 to line 58, and col.7 line 1 to line 20),

communicating from a producer to the user an encrypted product identification that references at least one of said user programs, communicating a user identification that identifies the user, and a copy protection identification to the user, the communicated copy protection identification corresponding to the copy protection identification connected via the hardware module (col.6 line 4 to line 45, col.10 line 31 to line 45);

when processing the installation program on the data processing system, inputting the communicated copy protection identification, the user identification and the encrypted product identification communicated from the producer, providing each of said user program with a

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predetermined memory area into which the copy protection identification can be entered (col.3 line 65 to col.5 line 10),

comparing by the installation program the copy protection identification that has been input to the copy protection identification connected via the hardware module and, given coincidence, deciphering the encrypted product identification upon utilization of the user identification as a key, and identifying one of said user programs referenced in the product identification, loading a selected one of said user programs from the storage medium into a memory area of the data processing system, entering by the cryptoprogram the copy protection identification into a predetermined memory area of the selected user program, and before running the selected user program, comparing the copy protection identification contained in the predetermined memory area to the copy protection identification directly connected with the data processing system via the hardware module, and running the selected user program only given coincidence (Fig.3, col. 7 line 28 to col.8 line 34, and col.10 line 15 to col. 11 line 14).

5. Claims 2-11 are rejected applied as above in rejecting Claim 1. Furthermore, the system of teaches and describes a system analyzing network intrusion, further

As per Claim 2, when running the installation program, further running of the installation program is only continued after the comparison of the copy protection identification that has been input to the copy protection identification connected with the data processing system given coincidence (col.6 line 18 to line 67).

As per Claim 3 the product identification also contains the copy protection identification, and further comprising the step of: comparing said copy protection identification to the copy protection identification connected with the data processing system, and continuing running of

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the further program steps only given coincidence (col.6 line 18 to line 67, and col.7 line 30 to col.8 line 34).

As per Claim 4 referencing a plurality of application programs in said product identification; determining a list of said application programs upon decipherment of the product identification; and checking said list for correctness (col.7 line 10 to line 25).

As per Claim 5 said step of checking said list for correctness ensues on a basis of a checksum check (col.7 line 10 to line 25).

As per Claim 6 accepting a user selection from the application programs of the list; and loading only the selected application programs from the storage medium into the memory area of the data processing system (col.7 line 10 to line 25).

As per Claim 7 undertaking an authentication between the installation program and a key program when the key program is called (col.3 line 65 to col.4 line 17).

As per Claim 8 said authentication is implemented according to a challenge-response protocol (col.7 line 55 to col.8 line 30).

As per Claim 9, wherein the product identification is compressed according to a static Huffman-Baum method (col.2 line 20 to line 37).

As per Claim 10 the copy protection identification connected with the data processing system is situated on a hardware module that is permanently connected to the data processing system (col.5 line 46 to line 55).

As per Claim 11, wherein the hardware module is a dongle that is pluggably connected to at least one of a parallel interface and a serial interface and a USB bus of the data processing system; and said dongle including the copy protection identification (Fig.1-2, col.10 line 31 to line 45).

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As per Claim 12, wherein said step of comparing by the installation program the copy protection identification connected via the hardware module to the communicated copy protection identification requires no decryption (col.10 line 15 to col. 11 line 14).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Syed Zia whose telephone number is 571-272-3798. The examiner can normally be reached on 9:00 to 5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SZ

September 04, 2006

A handwritten signature in black ink, appearing to be "S. Ma", is written over the date.